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SIPDIS

BANGKOK FOR DHS/BCIS

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TAGS: [CVIS](#) [KJUS](#) [PREL](#) [CASC](#) [VM](#)

SUBJECT: February 24 Repatriation Discussions

1. (U) Summary. A joint DOS/DHS delegation proffered a new approach to resolving the issue of the acceptance by Vietnam (GVN) of its nationals, based on the successful arrangement now in place with the Royal Cambodian Government (RGC). GVN officials agreed to review the new approach, but held to their previous position that categorically excludes certain nationals, such as those who entered the U.S. under refugee programs. GVN officials eventually put forth their own new proposal, suggesting a formal agreement that would exempt from repatriation any Vietnamese national who arrived in the U.S. prior to 1995. The Vietnamese agreed to review the U.S. proposal and provide their reaction by the end of March. End Summary.

#### A NEW APPROACH

2. (U) February 24, Cheryl Sim, Deputy Director, EAP/BCLTV, led a DOS/DHS delegation (USDEL) to explore with GVN interlocutors a new approach to resolve the long-standing issue of the repatriation of removable Vietnamese nationals. In opening comments, Sim detailed the history of discussions on the topic and reiterated the potential for the imposition of visa sanctions under INA section 243(d) for countries refusing to receive back their nationals. Sim sought clarification on a recent development on repatriations: The GVN is reportedly refusing to renew expired travel documents for Vietnamese nationals intended for repatriation, irrespective of the date or method by which they entered the U.S., on the grounds that the U.S. and GVN have no repatriation agreement. 1

3. (U) Urging a new approach, USDEL members presented to the SRV side as a possible model a Memorandum of Understanding (MOU) as well as a subsequent addendum to the MOU signed with the RGC in 2002-2003 that provide for case-by-case review of individual cases without reference to categorical exclusions, facilitates verification of nationality by RGC officials, and provides limited reintegration assistance for returned Cambodian nationals via a non-governmental organization (NGO). USDEL reiterated the position that a formal, written agreement is not a sine qua non for further resolution of this matter; on the contrary, written bilateral agreements on immigration matters are the rare exception for the U.S. USDEL stressed that "concrete results" were paramount for the U.S. soon on this issue.

#### VIETNAMESE: FEET STUCK IN OLD POSITIONS?

4. (U) Mr. Bui Dinh Dinh, Director of Consular Dept, MFA, and head of delegation, opened his response with positive assertions that a solution might be found with further "goodwill" and "humanitarian interests" taken into account. Dinh stressed that the GVN would not refuse to take back any of its nationals who have violated U.S. law, as long as "an appropriate mechanism" governs such arrangements. While acknowledging the U.S. side's interest in a fresh approach, Dinh said that the GVN side had been under the impression that the U.S. side was still interested in discussing a formal agreement along the lines of the draft text last discussed between the two sides in March 2001. Dinh added that the GVN has signed formal repatriation agreements with governments of Canada, Australia, Germany, and the Netherlands, and is currently negotiating agreements with Poland, Switzerland, Russia, and the Ukraine. Because bilateral relations vary, individual treatment and separate agreements are necessary, emphasized Dinh.

5. (U) Dinh further stressed the necessity of a formal government-to-government "written agreement" to guide respective GVN agencies and local authorities on procedures for implementing repatriations, noting difficulties for provincial or auxiliary government organs to abide by terms if they are not detailed explicitly by the central government. Dinh also repeated prior distinctions between those who left Vietnam on valid passports in recent years and those who departed during the post-Vietnam conflict refugee-era (i.e., roughly, the period between 1975 and 1994). Dinh raised the problem of correctly identifying the nationality of those Vietnamese who left without GVN issued documents, those who left illegally or fled judicial proceedings. Dinh also detailed anticipated problems with reintegrating those who no longer have relatives, homes,

connections, or jobs to return to in Vietnam. Dinh argued that the vast majority of those who left Vietnam contributed to Vietnamese society and that to force only the bad cases back now would not present a satisfactory scenario for Vietnam.

16. (U) In pressing the GVN case for reintegration assistance, Dinh noted that Vietnam had accepted more than 100,000 Cambodian refugees and the GVN provided financial assistance to them. Dinh argued that "humanitarian values" necessitate such assistance in cases such as these. Dinh also stated that the Netherlands-GVN repatriation agreement could serve as an appropriate model on this issue. Dinh provided a cost-breakdown of approximately \$3,000 per returnee.

17. (U) In regard to USDEL's concerns that the GVN was no longer issuing documents to Vietnamese nationals in the U.S. who had arrived after 1995, USDEL presented to the GVN a copy of a recent request for the issuance of a travel document for a Vietnamese national that had been presented to Embassy of Vietnam in Washington, DC. This request was rejected by GVN embassy because of the absence of a repatriation agreement with the US. Dinh noted that he would look into the matter but went on to further imply that a formal repatriation agreement would include documented Vietnamese nationals. This implication represents a change in GVN position. In prior discussion with GVN, the GVN committed to accepting the return of documented Vietnamese nationals from the United States. This had been the practice until recently.

WHERE DO WE GO FROM HERE?

18. (U) During the afternoon session, the parties returned to assess specific steps to be taken to achieve progress. Sim suggested that the parties consider the possibility of an interim agreement as a basis for a pilot program that would encourage mutual trust and build capacity on repatriations. Sim proposed an arrangement along the lines of the Cambodian agreement, but stated the U.S. would appreciate comments for tailoring it to the Vietnam context. She again reiterated the U.S. side's strong desire to see progress made in order to avoid the imposition of any sanctions under section 243(d) of the INA.

19. (U) Dinh agreed to consider all points, but insisted that prior 2001 draft text had already made substantial progress and that previous GVN positions had been approved by higher authorities. Dinh cautioned that to start anew would cause difficulties and would necessitate higher governmental approval to change directions. Dinh also remarked on specific differences between Cambodia and Vietnam and that any future agreement would have to take fully into account Vietnam's particular situation. He emphasized that a "written document signed between governments" is essential. Dinh repeated earlier comments about scope and coverage of an agreement and requested the U.S. side's understanding in handling returnees. Dinh argued that some Vietnamese fled Vietnam following the Vietnam War to avoid charges for crimes. Dinh stated that if these Vietnamese were to return, they could still face charges upon return. Dinh made a last push for some sort of cut-off date prior to which Vietnamese who entered the U.S. would be exempt from repatriation. Dinh suggested the date of the official resumption of U.S.-Vietnam diplomatic relations in 1995 as a useful point of reference.

110. (U) The U.S. side replied that a reply to such a proposal could not be made at this time, but that we would take the GVN proposal under advisement. Sim requested the GVN side to give careful consideration to the new U.S. proposal for an agreement along the lines of the U.S.-Cambodian program and to let us have a response via Embassy Hanoi within several weeks. Dinh promised to do so.

111. (SBU) Comment: Discussions on repatriations of removable Vietnamese have lingered for over a decade without concrete progress. The recent revelation that the GVN may now be refusing to accept back nationals who entered the U.S. more recently raises special concerns, and calls into further question the GVN's desire to abide by international norms in taking back their nationals. Sensitivity over refugees and Vietnam War-era issues remains, especially given the fact that many removable Vietnamese left Vietnam with U.S. assistance under refugee or U.S. government-affiliate status. It is hard to imagine the GVN really coming to terms with these would-be returnees. Moreover, even in those cases where the GVN has entered repatriation agreements with other states, acceptance of wartime-era Vietnamese has been inordinately slow, grudging, and problematic. End comment.

112. (U) The GVN's delegation: Mr. Bui Dinh Dinh, Director of Consular Dept, MFA, Head of delegation; Mr. Nguyen Xuan Long, Chief of Section for Management of Exit & Entry of

Vietnamese, Immigration Dept, MPS; Mr. Nguyen Minh Vu, Deputy Director, Consular Dept, MFA; Mr. Le Van Nam, Expert, Consular Dept, MFA; Mr. Trinh Duc Hai, Expert, Consular Dept, MFA; Mr. Vu Thanh Binh, Deputy Director General of the Immigration Dept., MPS; Mr. Nguyen Luong Ngoc, Expert, Consular Dept, MFA; Ms. Hoang Thanh Nha, Expert, America's Dept., MFA; Ms. Nguyen Thi Thanh Thao, Interpreter.

13. (U) The U.S. delegation: Ms. Cheryl Sim, Deputy Director, EAP/BCLTV; Mr. James Hergen, Asst. Legal Adviser, L/EAP; Mr. David Venturella, Asst. Dir., Detention and Removal Operations, DHS; Mr. Larry Mizell, Sr. Advisor, Border and Transportation Security, DHS; DCM Robert Porter, Embassy Hanoi; Clark Ledger, Consular officer, Embassy Hanoi; Hanh Pham, Consular FSN advisor and interpreter, U.S. Embassy Hanoi; Rick Sell, Officer in Charge, DHS/Ho Chi Minh City; Kimberly Yen, Immigration officer, DHS/Ho Chi Minh City.  
PORTER

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1 Info required.